

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Opoku-Agyemang	Team: Squad #5	CCRB Case #: 201601182	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/10/2016 1:10 PM	Location of Incident: West 14 Street and 7th Avenue	Precinct: 13	18 Mo. SOL 8/10/2017	EO SOL 8/10/2017	
Date/Time CV Reported Fri, 02/12/2016 2:24 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 02/12/2016 2:24 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Thomas Manning	10032	930644	013 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Carolina Lugo	27213	948239	013 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Thomas Manning	Force: Police Officer Thomas Manning struck § 87(2)(b) with a vehicle.	

Case Summary

At approximately 1:10 p.m. on February 10, 2016, § 87(2)(b) was crossing West 14th Street at the intersection of West 14th Street and 7th Avenue in Manhattan (Board Review 01). At the same time, a marked vehicle, driven by Police Officer Thomas Manning of the 13th Precinct, with Police Officer Carolina Lugo of the 13th Precinct as the recorder, was making a U-turn across the crosswalk. The marked car and the side of § 87(2)(b) right knee came into contact (**Allegation A**). The officers offered to call an ambulance for § 87(2)(b) but he did not feel any pain at the time and refused medical attention. § 87(2)(b) felt pain a few hours later and went to § 87(2)(b), where he was diagnosed with a contusion to his right knee (BR02 & 03 – Privileged Documents). § 87(2)(b) was not arrested or issued a summons.

On February 16, 2016, the Field Team went to the incident location to seek video footage (BR04). They found a pharmacy at the intersection that had a camera that faced the crosswalk where the incident occurred. The investigators viewed the video footage and observed that, during the period when the contact between the marked car and § 87(2)(b) occurred, the camera's view of the crosswalk was blocked by a parked bus. Due to a malfunction in the Pharmacy's video system, the footage could not be exported. No additional video footage was found.

Mediation, Civil and Criminal Histories

On March 2, 2016, a Notice of Claim search was requested from the Comptroller's Office and will be added to the casefile upon receipt. At the time of his CCRB interview § 87(2)(b) stated that he had already spoken with an attorney and was in the process of filing a lawsuit about this incident. This complaint was therefore deemed unsuitable for mediation. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(g)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) (BR06).
- Police Officer Manning has been a member of the NYPD for 13 years and has had three previous CCRB allegations in two cases with no substantiated allegations. § 87(2)(g)

Potential Issues

§ 87(2)(b) provided the name and telephone number for a female bystander who interjected in the conversation between he and the officers. She provided her name to § 87(2)(b) as § 87(2)(b) and her telephone number. Police Officer Manning and Police Officer Lugo confirmed that there was a female bystander who stated that she witnessed the incident, though they did not obtain her name. A call was made to § 87(2)(b) and a voicemail message was left for her. § 87(2)(b) called back and left a voicemail message in which she stated that she did not believe that any "misconduct" occurred, but, rather, a "misunderstanding on both sides" (BR07). She did not respond to subsequent attempts to contact her.

Findings and Recommendations

Allegations not pleaded

As per § 87(2)(b) the officers offered to call an ambulance for him and to file a "report" for him.

§ 87(2)(b) stated that he did not need an ambulance but wanted a report filed. The officers replied that in order to file a report, they would need to call an ambulance for him. § 87(2)(b) ultimately informed the officers that he did not need them to call an ambulance because he felt no pain and the officers insisted that they would need to call an ambulance for him in order to file a report. Police Officer Manning and Police Officer Lugo provided accounts that were consistent with that of § 87(2)(b) in this regard. Police Officer Lugo stated that what she had in mind when she offered to file a “report” for § 87(2)(b) was an Accident Report. Police Officer Manning stated that what he had in mind was an AIDED Report. It is undisputed that § 87(2)(b) did not specifically request to file a Civilian Complaint against Police Officer Manning with Police Officer Manning and Police Officer Lugo. Police Officer Manning, however, stated that he offered his shield number to § 87(2)(b) and informed him that if he wanted to file a complaint against him, he could call the CCRB or go to the 13th Precinct to do so. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Recommendations

Allegation A – Force – Police Officer Thomas Manning struck § 87(2)(b) with a vehicle.

§ 87(2)(b) filed his initial complaint with the CCRB by telephone on February 12, 2016, and provided a sworn statement on February 16, 2016. The CCRB interviewed Police Officers Manning and Lugo on February 22, 2016.

§ 87(2)(g) It is undisputed that the marked car and § 87(2)(b) right knee came in contact and it is not being alleged that this contact was intentional on the part of Police Officer Manning. It is undisputed that, as § 87(2)(b) was crossing West 14th Street at the intersection with 7th Avenue, Police Officer Manning was conducting a U-turn, with his turret lights on, across the same crosswalk.

As per § 87(2)(b) when he first observed the marked car, he was approximately three feet away from it. Both he and the marked car stopped immediately. § 87(2)(b) took the stopping of the marked car to be an indication that the driver of the marked car was allowing him to cross the crosswalk. When the vehicle stopped, it allowed the person in front of § 87(2)(b) to continue crossing the crosswalk. § 87(2)(b) decided to walk around the side of the marked car to finish crossing the crosswalk as well. However, as § 87(2)(b) began to walk, the marked car began to move as well. They both stopped quickly again but, in so doing, the “metal grill” attached to the front of the marked car struck the outside of § 87(2)(b) right knee. § 87(2)(b) lost his balance momentarily but balanced himself by placing a hand on the hood of the marked car. § 87(2)(b) stated that the contact the vehicle made with him was “not hard” and believed that it was “an accident.”

§ 87(2)(b) did not feel any immediate pain from the vehicle making contact with him. However, a few hours later he felt pain. He went to § 87(2)(b). A physical examination showed no abrasions, lacerations, swelling, tenderness, or ecchymosis to his leg and X-rays produced “unremarkable knee radiographs,” showing no fractures, joint effusion, or loose bodies. He was diagnosed with a contusion to his right knee and was given a splint and knee

brace (BR08) and a prescription for a painkiller (BR02 & 03).

Police Officers Manning and Lugo responded to the intersection of 7th Avenue and West 14th Street in response to a “directed patrol” instruction (BR09). They parked at a fire hydrant at the intersection for approximately 10 minutes before preparing to resume patrol.

As per Police Officer Manning, 7th Avenue was the boundary of the 13th Precinct and so, in order to remain within the confines of his Precinct, he needed to make a U-turn at the intersection of West 14th Street and 7th Avenue from the westbound (northern) lanes of West 14th Street into the eastbound (southern) lanes of West 14th Street, across the crosswalk. Police Officer Manning turned on the turret lights (but not the sirens) on the marked car. Police Officer Manning stated that he turned the turret lights on “just to make people aware that, you know, to stand back from the vehicle.” Police Officer Manning, while still parked, turned the wheels of the vehicle “all the way to the left” and then “inched forward” into the shaded crosswalk. When approximately three to four feet of the front passenger side of the marked car was in the crosswalk, Police Officer Manning stopped the marked car. Police Officer Manning observed several pedestrians crossing the crosswalk. All of the pedestrians, with the exception of § 87(2)(b) walked around the marked car and continued crossing the crosswalk. Police Officer Manning recalled that there were three pedestrians walking in front of § 87(2)(b) in the direction of the marked car, at the time he stopped the marked car and all three walked around the marked car and continued crossing the crosswalk. § 87(2)(b) walked directly towards the marked car and “into” the corner of the passenger side of the front of the RMP. It appeared to Police Officer Manning that § 87(2)(b) right leg had made initial contact with the RMP, though he could not see which specific part of the leg did so. Police Officer Manning stated that at the time that § 87(2)(b) made contact with the car, his foot was on the brake, the marked car was not in motion, and had been still for approximately three to five seconds.

Police Officer Lugo stated that she was not paying attention to what was going on in front of the marked car as Police Officer Manning was making the U-turn and did not notice § 87(2)(b) until he had already come into contact with the car and that at that point the vehicle was not in motion.

§ 87(2)(b) left a voicemail message with the CCRB in which she stated that she did not believe that any “misconduct” occurred, but, rather, a “misunderstanding on both sides.” § 87(2)(g)

§ 87(2)(b)

§ 87(2)(g)

Squad: 5

Investigator: _____ Alexander Opoku-Agyemang March 2, 2016
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date